

Appl. No. 09/400,030
Amdt. dated February 28, 2006
Reply to Office Action of April 7, 2005

REMARKS

I. Status of Claims

Claims 1-3, 5-11, 13-19 and 21-24 are pending.

II. Claim Rejection over U.S. Patent No. 6,263,066 to Shtivelman et al.

In the final Office Action, the Examiner continues to reject claims 1-3, 6-11, 14-19 and 22-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,263,066, to Shtivelman et al (hereinafter the Shtivelman et al '066 patent). In reply to Applicants' submission of the Declaration under 37 C.F.R. 1.131 on October 7, 2005, the Examiner states in the final Office Action that the critical reference date is February 6, 1997 (i.e., the earliest filing date of the four related patents listed on the title page of the Shtivelman et al '066 patent) without any response to arguments set forth by the undersigned in Section III, pages 11 and 12, of the Amendment submitted on October 7, 2005.

Following teleconferences with the Examiner on December 5 and 6, 2005, the Examiner acknowledged that the critical reference date is not the February 6, 1997 filing date of U.S. Patent No. 5,765,033, but rather he asserted it was the September 12, 1997 filing date of U.S. Patent No. 5,926,539 listed on the title page of the Shtivelman et al '066 patent and referenced column 3, lines 1-10 of this '539 patent.

Applicants respectfully direct the Examiner's attention to the Section III, pages 11 and 12, of the Amendment submitted on October 7, 2005 which state that:

"The queue discussed in U.S. Patent No. 5,926,539 is a queue at an agent's station for storing unanswered calls, which can be multimedia. The queue disclosed in the '539 patent does not teach a common queue as claimed for storing contacts for routing to workstations of agents."

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As the undersigned indicated to the Examiner via teleconference on December , 2005, column 3, lines 1-10 of the '539 patent describe a method for determining the busy/available status for an *agent* (emphasis added) in a call center. The queue relied on by the Examiner is "at the agent's station" (see column 3, line 3 of the '539 patent). The Applicants also direct the Examiner's attention to column 5, lines 48-50 of the '539 patent which state that *agents* (emphasis added) can set their own mail queue limits. The control routine disclosed in the '539 patent uses routing software to route a call to an agent determined to be the best fit based on the purpose of the call (see column 6, lines 34-36 of the '539 patent). It is only *after* a call is routed to an agent that the routine in Fig. 1 of the '539 patent uses the queue *at the agent* to determine if the agent is busy (see column 6, lines 36-41 of the '539 patent). Thus, the '539 patent routes to an agent and then considers the status of that agent's queue. By contrast, the invention recited in claim 1, queues contacts and then routes the *queued* contacts to workstations. Accordingly, Applicants respectfully request withdrawal of the '539 patent as the basis for the critical reference date.

The title page of the Shtivelman et al '066 patent also claims the benefit under 35 U.S.C. § 120 of U.S. Patent Nos. 6,044,146 and 6,002,760, both filed on February 17, 1998. Applicants respectfully direct the Examiner's attention to the Section III, pages 11 and 12, of the Amendment submitted on October 7, 2005 which state that:

"The family of patents listed on the title page of the Shtivelman et al '066 patent have been reviewed and none are deemed to be relevant. U.S. Patent No. 6,044,146 describes use of the disclosed communication router with multimedia communication mediums such as e-mails or Internet Protocol Network Telephony (IPNT) calls, as well as voice calls (see column 8, lines 50-65 of the '146 patent). Queuing of the IPNT calls, however, is described as using a separate queue from queue 69. Similarly, U.S. Patent No. 6,002,760 describes a queue for IPNT environment transactions that is separate from a queue for voice calls, that is, uses a TCP/IP connection rather than POTS lines as stated in column 6, lines 18-29 of the '760 patent."

Thus, neither U.S. Patent No. 6,044,146, nor U.S. Patent No. 6,002,760, disclose or suggest the common queue for different media-type contacts recited in claim 1. The language in the

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Shtivelman et al '066 patent regarding a single multimedia-queue (see column 7, lines 38-52) that is relied on to reject the claims does not appear in any of the four related patents cited on its title page. In fact, column 7, lines 38-47 the Shtivelman et al '066 patent very clearly indicated that the single multimedia-queue disclosed therein was not in the co-pending application Serial No. 09/024,933 that issued as U.S. Patent No. 6,002,760 discussed above. Column 7, lines 38-47 the Shtivelman et al '066 patent state:

“M-Queue 36 has all of the attributes of the queue of case Ser. No. 09/024,933 with the added adaptation that enables storing and processing records of all forms of multimedia communication, including DNT and COST calls. ... In some embodiments of the present invention, there may be more than one queue established by the software of the invention with each queue dedicated to different forms of communication and prioritized according to pre-set rules. However, *due to an innovative technique of the present invention* (emphasis added) wherein any communication may be represented by a LAN-transportable virtual-communication record, one queue is all that is required.”

Thus, the M-Queue 36 relied on by the Examiner is subject to the June 11, 1998 filing date of the Shtivelman et al '066 patent and not the February 17, 1998 filing date of the two U.S. Patent Nos. 6,044,146 and 6,002,760. In any event, the Declaration under 37 C.F.R. 1.131 submitted on October 7, 2005 antedates the February 17, 1998 filing date of these two patents (e.g., see document provided as Appendix A and dated January 27, 1998).

The undersigned contacted the Examiner to request an interview to discuss the family of patents listed on the title page of the Shtivelman et al '066 patent and the appropriate critical reference date. The undersigned's request was not granted by the Examiner, who instead instructed the undersigned to file a written response. Applicants therefore respectfully request reconsideration and withdrawal of this rejection in view of the Declaration under 37 C.F.R. 1.131 filed on October 7, 2005 and the foregoing.

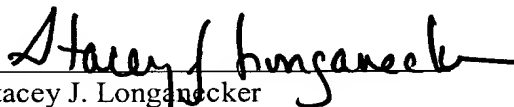
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III. Conclusion

In view of the above, it is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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Stacey J. Longanecker
Reg. No. 33,952
Attorney for Applicants

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036-2680
Main: (202) 659-9076
Direct: (202) 530-7370